

### Remarks

The Applicants gratefully acknowledge the telephone conversation between the Examiner and Applicants' attorney in which a recently discovered post-Allowance reference was discussed. Specifically, Applicants' attorney explained the general subject matter of reference, how it appears to relate to the present inventions and discussed filing a §312 amendment. In response, the Examiner suggested filing an RCE to expedite prosecution. Accordingly, submitted contemporaneously with this preliminary amendment is a Request for Continued Examination, as well as the aforementioned reference set forth on a PTO Form 1449.

The reference, entitled "ASTM E-119-95a; Fire Tests of Building Construction and Materials; Limited Load Conditions\*; 2 x 4 Wood Double Leaf Wall; Project No. 15746-101913" describes a wall assembly that received a 2-hour rating for 47.5% of full design load. This testing was performed in September of 1997 for one of the Applicants' predecessor companies by an outside test laboratory. This testing was conducted in accordance with the ASTM E119-95a protocol, which is submitted contemporaneously as the document entitled "Designation: E119-95a; Standard Test Methods for Fire Tests of Building Construction and Materials<sup>1</sup>". This predecessor company later merged and became part of the company that is now the Assignee of the present inventions.

The present inventions pertain to an improved wall assembly that received a 2-hour rating for 75% of full design load, as previously set forth in the record. (See at least "BXUV.U370; Fire Resistance Ratings – ANSI/UL 263", which was submitted with IDS dated April 1, 2004, a copy of which is enclosed as "Attachment A" for convenience).

Applicants respectfully point out that the recently discovered reference pertains to 2-hour rating for 47.5% of full design load (see at least title page of said reference) whilst the present invention pertains to 2-hour rating for 75% of full design load (see at least page 2 of Attachment A).

Accordingly, in this Preliminary Amendment the preamble of each of the three independent claims has been amended to recite that the area separation wall is rated for two hours at about 75% design load. Since the fire rating of the present inventions was directed to the structure and test procedures set forth in the specification (see reference to ASTM E119 on page 1, lines 27-30), it is respectfully submitted that the offered amendments do not constitute new matter.

The Applicants recognize that this post-Allowance communication requires additional effort on the part of the Examiner and sincerely appreciate her assistance. If Applicants' attorney can assist in resolving any issue, the opportunity for a telephone interview would be welcomed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edward W. Rilee". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

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File No.: 8274-020

# ATTACHMENT A



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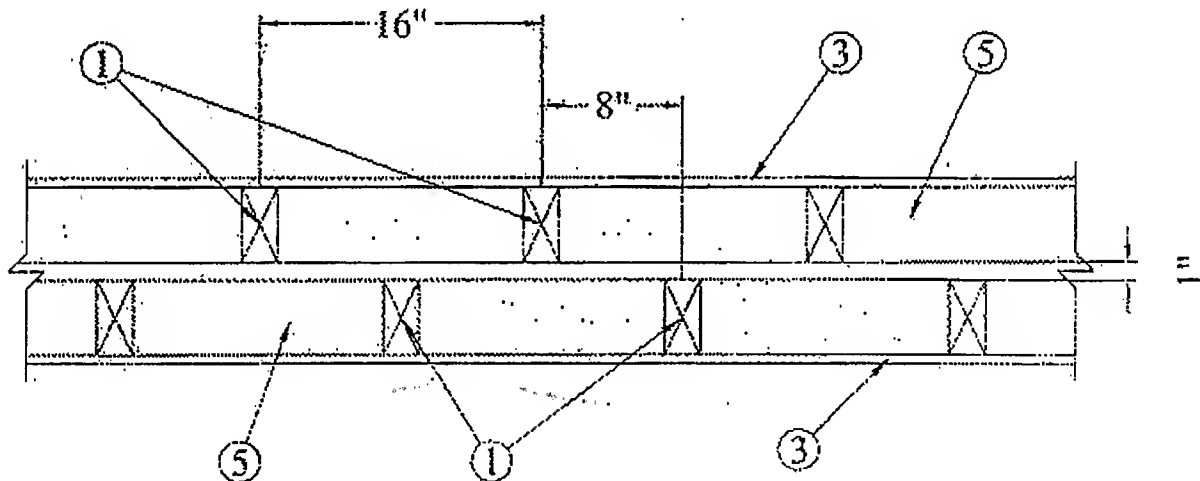
### Fire Resistance Ratings - ANSI/UL 263

#### Guide Information

Design No. U370

February 26, 2003

Bearing wall rating-1-1/2 or 2 Hr. (See Items 3 and 5)



1. **Wood Studs** — Double row of nominal 2 x 4 in. studs, spaced 16 in. OC and cross-braced at mid-height. Opposite rows spaced 1 in. apart, staggered 8 in. OC and joined at the top and bottom with bearing plates.

2. **Bearing Plates** — (not shown) Nominal 2 x 4 in. Two layers on top and one layer on bottom for each row of studs.

3. **Wallboard, Gypsum\*** — 4 ft wide. gypsum wallboard applied vertically and nailed to studs and bearing plates 7 in. OC with 6d cement coated nails, 1-7/8 in. long, 0.0915 in. shank diameter and 1/4 in. diameter head. As an alternative, No. 6 bugle head drywall screws, 1-7/8 in. long may be substituted for the 6d cement coated nails. The thickness and number of layers and percent of

design load for the 1-1/2 hr and 2 hr ratings are as follows:

**Wallboard Protection on Each Side of Wall**

Rating	No. of Layers & Thkns of Panel	% of Design Load
1-1/2 Hr	1 layer, 5/8 in. thick	100
2 Hr	1 layer, 5/8 in. thick	75

**UNITED STATES GYPSUM CO — Type C**

4. **Joints and Screwheads** — (Not shown) — Wallboard joints taped and both joints and nailheads covered with joint compound.

5. **Fiber, Sprayed\*** — Spray applied cellulose insulation material. The fiber is applied with water to completely fill the enclosed 8 in. cavity in accordance with the application instructions supplied with the product. The nominal dry density and percent of design load for the 1-1/2 hr and 2 hr ratings are as follows:

Rating	Nominal Dry Density	% of Design Load
1-1/2 Hr	2.60 lb/ft <sup>3</sup>	100
2 Hr	3.35 lb/ft <sup>3</sup>	75

**U S GREENFIBER L L C — Cocoon stabilized cellulose insulation.**

6. **Mesh Netting** — (Not shown) - Any thin, woven or non-woven fibrous netting material attached with staples to the outer face of one row of studs to facilitate the installation of the sprayed fiber from the opposite row.

\*Bearing the UL Classification Mark

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